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Paper No. 5

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**AUG 19 2002**

**OFFICE OF PETITIONS**

MEDLEN & CARROLL, LLP  
101 Howard Street, Suite 350  
San Francisco, CA 94105

In re Application of  
Rothschild et al.  
Application No. 10/034,736  
Filed: December 27, 2001  
Attorney Docket No. AMBER-06803

DECISION REFUSING STATUS  
UNDER 37 CFR 1.47(a)

This is in response to the petition, filed May 1, 2002 (certificate of mailing date April 22, 2002), under 37 CFR. §1.47(a).

The petition under 37 CFR. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on December 27, 2001, without an executed oath or declaration. Accordingly, on February 22, 2002, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of April 22, 2002.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. In support of the petition, petitioner has provided copies of correspondence mailed to non-signing inventor.

A grantable petition under 37 CFR. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (2).

As to item (2), the declaration submitted is not in compliance with 37 CFR 1.63. Rule 47 applicant failed to provide the citizenship and mailing addresses of all of the inventors pursuant to 37 CFR 1.63 (a)(3) and (c)(1). Petitioner failed to provide the name, address or citizenship of inventor Sanjay M. Sonar. Upon renewed petition, a executed oath or declaration with all inventors information must be provided.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

By FAX: (703) 308-6916  
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23  
2201 S. Clark Place  
Arlington, VA 22202

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

A handwritten signature in black ink, appearing to read "Nancy Johnson", is written over the printed name and title of the signatory.

Beverly M. Flanagan  
Supervisory Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy